

R.C.M. 1111(a)(1)

gating the result of trial as to each accused shall be forwarded with the original record of trial. Two additional copies of the record of trial shall accompany the original record if the approved sentence includes death or if it includes dismissal of an officer, cadet, or midshipman, dishonorable or bad-conduct discharge, or confinement for one year or more and the accused has not waived appellate review.

(2) *Cases forwarded to a judge advocate.* A record of trial by general court-martial and the convening authority's action shall be sent directly to a judge advocate for review under R.C.M. 1112 if the sentence does not include death and if the accused has waived appellate review under R.C.M. 1110. Unless otherwise prescribed by the Secretary concerned, 4 copies of the order promulgating the result of trial shall be forwarded with the original record of trial.

(b) *Special courts-martial.*

(1) *Cases including an approved bad-conduct discharge or confinement for one year.* If the approved sentence of a special court-martial includes a bad-conduct discharge or confinement for one year, the record shall be disposed of as provided in subsection (a) of this rule.

(2) *Other cases.* The record of trial by a special court-martial in which the approved sentence does not include a bad-conduct discharge or confinement for one year shall be forwarded directly to a judge advocate for review under R.C.M. 1112. Four copies of the order promulgating the result of trial shall be forwarded with the record of trial, unless otherwise prescribed by regulations of the Secretary concerned.

(c) *Summary courts-martial.* The convening authority shall dispose of a record of trial by summary court-martial as provided by R.C.M. 1306.

Discussion

See DD Form 494 (Court-Martial Data Sheet).

Rule 1112. Review by a judge advocate

(a) *In general.* Except as provided in subsection (b) of this rule, under regulations of the Secretary concerned, a judge advocate shall review:

(1) Each general court-martial in which the accused has waived or withdrawn appellate review under R.C.M. 1110.

(2) Each special court-martial in which the accused has waived or withdrawn appellate review under R.C.M. 1110 or in which the approved sentence does not include a bad-conduct discharge or confinement for one year; and

(3) Each summary court-martial.

(b) *Exception.* If the accused was found not guilty or not guilty only by reason of lack of mental responsibility of all offenses or if the convening authority disapproved all findings of guilty, no review under this rule is required.

(c) *Disqualification.* No person may review a case under this rule if that person has acted in the same case as an accuser, investigating officer, member of the court-martial, military judge, or counsel, or has otherwise acted on behalf of the prosecution or defense.

(d) *Form and content of review.* The judge advocate's review shall be in writing and shall contain the following:

(1) Conclusions as to whether—

(A) The court-martial had jurisdiction over the accused and each offense as to which there is a finding of guilty which has not been disapproved;

(B) Each specification as to which there is a finding of guilty which has not been disapproved stated an offense; and

(C) The sentence was legal;

(2) A response to each allegation of error made in writing by the accused. Such allegations may be filed under R.C.M. 1105, 1106(f), or directly with the judge advocate who reviews the case; and

(3) If the case is sent for action to the officer exercising general court-martial jurisdiction under subsection (e) of this rule, a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.

Copies of the judge advocate's review under this rule shall be attached to the original and all copies of the record of trial. A copy of the review shall be forwarded to the accused.

(e) *Forwarding to officer exercising general court-martial jurisdiction.* In cases reviewed under subsection (a) of this rule, the record of trial shall be sent for action to the officer exercising general court-martial convening authority over the accused at the time the court-martial was held (or to that officer's successor) when:

(1) The judge advocate who reviewed the case recommends corrective action;

(2) The sentence approved by the convening authority includes dismissal, a dishonorable or bad-conduct discharge, or confinement for more than 6 months; or

(3) Such action is otherwise required by regulations of the Secretary concerned.

(f) *Action by officer exercising general court-martial jurisdiction.*

(1) *Action.* The officer exercising general court-martial jurisdiction who receives a record under subsection (e) of this rule may—

(A) Disapprove or approve the findings or sentence in whole or in part;

(B) Remit, commute, or suspend the sentence in whole or in part;

(C) Except where the evidence was insufficient at the trial to support the findings, order a rehearing on the findings, on the sentence, or on both; or

(D) Dismiss the charges.

Discussion

See R.C.M. 1113 concerning when the officer exercising general court-martial jurisdiction may order parts of the sentence executed. See R.C.M. 1114 concerning orders promulgating the action of the officer exercising general court-martial jurisdiction. See also Appendix 16 (Forms for actions) and Appendix 17 (Forms for court-martial orders).

(2) *Rehearing.* If the officer exercising general court-martial jurisdiction orders a rehearing, but the convening authority finds a rehearing impracticable, the convening authority shall dismiss the charges.

(3) *Notification.* After the officer exercising general court-martial jurisdiction has taken action, the accused shall be notified of the action and the accused shall be provided with a copy of the judge advocate's review.

(g) *Forwarding following review under this rule.*

(1) *Records forwarded to the Judge Advocate General.* If the judge advocate who reviews the case under this rule states that corrective action is required as a matter of law, and the officer exercising general court-martial jurisdiction does not take action that is at least as favorable to the accused as that recommended by the judge advocate, the record of trial and the action thereon shall be forwarded to

the Judge Advocate General concerned for review under R.C.M. 1201(b)(2).

(2) *Sentence including dismissal.* If the approved sentence includes dismissal, the record shall be forwarded to the Secretary concerned.

Discussion

A dismissal may not be ordered executed until approved by the Secretary or the Secretary's designee. See R.C.M. 1206.

(3) *Other records.* Records reviewed under this rule which are not forwarded under subsection (g)(1) of this rule shall be disposed of as prescribed by the Secretary concerned.

Discussion

A dismissal may not be ordered executed until approved by the Secretary or the Secretary's designee under R.C.M. 1206.

Rule 1113. Execution of sentences

(a) *In general.* No sentence of a court-martial may be executed unless it has been approved by the convening authority.

Discussion

An order executing the sentence directs that the sentence be carried out. Except as provided in subsections (d)(2), (3), and (5) of this rule, no part of a sentence may be carried out until it is ordered executed.

(b) *Punishments which the convening authority may order executed in the initial action.* Except as provided in subsection (c) of this rule, the convening authority may order all or part of the sentence of a court-martial executed when the convening authority takes initial action under R.C.M. 1107.

(c) *Punishments which the convening authority may not order executed in the initial action.*

(1) *Dishonorable or a bad-conduct discharge.* Except as may otherwise be prescribed by the Secretary concerned, a dishonorable or a bad-conduct discharge may be ordered executed only by:

(A) The officer who reviews the case under R.C.M. 1112(f), as part of the action approving the